

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	2348186	verif\$8 or authenticat\$5 or authori\$7 or approv\$5 or permi\$7	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:52
L2	1415772	license or access\$3	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:53
L3	158423	1 with 2	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:53
L4	35115	license	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:53
L5	12239	3 and 4	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:54
L6	961051	ID or identificaiton or identifier	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:54
L7	3143219	compar\$5 or constrast\$3	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:54
L8	41245	6 with 7	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:55
L9	1564	5 and 8	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:55

L10	22530	(product or software or content) near3 6	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:56
L11	438	9 and 10	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:57
L12	47837	(client or user or owner) near3 6	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:58
L13	351	11 and 12	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:58
L14	53	13 and @ad<"20000428"	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:58
L15	15	13 and @prad<"20000428"	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:58
(L16)	61	14 or 15	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2005/09/09 17:58

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Set	Items	Description
S1	1880231	ID OR IDS OR IDENTIFICATION? ? OR IDENTIFIER? ?
S2	14838757	USER? ? OR CLIENT? ? OR OWNER? ?
S3	43830	S1 (3N) S2
S4	41614	PRODUCT? ? (3N) S1
S5	0	SOFTWARE? ? (3N) S1
S6	20291	SOFTWARE? ? (3N) S1
S7	4263	CONTENT? ? (3N) S1
S8	63918	S4 OR S6 OR S7

S9 3099474 LICENSE? ?
 S10 1192 S3 AND S8 AND S9
 S11 10397 (COMPAR????? OR CONSTRAST???) (8N) S1
 S12 31 S10 AND S11
 S13 14697116 VERIF????????? OR AUTHENTICAT????? OR AUTHORI????????? OR APPR-
 OV????? OR PERMI?????????
 S14 27 S12 AND S13
 S15 17 S14 NOT PY>2000
 read S16 10 RD (unique items)
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16/K/1 (Item 1 from file: 15)
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01829241 04-80232

Monopoly bundling in cyberspace: How many products does Microsoft sell?

Meese, Alan J
Antitrust Bulletin v44n1 PP: 65-116 Spring 1999
ISSN: 0003-603X JRNL CODE: ANB
WORD COUNT: 18956

...ABSTRACT: or OEMs) to purchase Internet Explorer (IE) - Microsoft's Internet browser - if they desire a **license** to "pre-load" the company's Windows operating system on personal computers before they are...
...TEXT: or OEMs) to purchase Internet Explorer (IE)-Microsoft's Internet browser-if they desire a **license** to "pre-load" the company's Windows operating system (OS) on personal computers (PCs) before...Microsoft distributed IE 4.0 on a separate CD ROM, and amended its Windows 95 **license** agreements to require OEMs to ship the CD with pSoon thereafter, the agreements were again...the procedure described by the government actually removes the browser or. instead. simply denies the **user** access to it. **Id** . See also notes 166-68 infra and accompanying text.

Footnote:

See Microsoft, 1998-2 Trade...

...preliminary injunction); United States v. Microsoft Corp.. 56 F.3d 1448 (D.C. Cir. 1995) (**approving** decree); 59 Fed. Reg. 59.426 (Nov. 17. 1994) (reproducing decree).

Footnote:

" See Microsoft, 980...tie of rivet-setting machines and rivets). See also note 39, supra (collecting Supreme Court **authority** for the same proposition). The court reached this conclusion, it should be noted, despite its...efficiencies a single product. See AREEDA ET AL., supra note 50, 1749a2. Thus, the treatise **approves** of the result in Principe, although many franchisors do not. as McDonald's did there...

...their franchisees to lease real estate from them. See id. 1749a2, at 256, n.25 (**approving** Principe). The treatise implicitly concedes, then, that the separate demand test does not identify all...an automatic loading mechanism and thus lowered the cost per megabyte of storage capacity); but **compare** id . at 232-33 (relying also upon fact that combiconsistent with industry practice). See also Foremost...

...into account as affirmative, business justification defenses rather than [by] folding them into the separate **products** issue." **Id** .

See AREEDA ET AL., supra note 50, 1 1746, at 227.

Footnote:

For instance, this...part, on the fact that small performing rights societies offered the very sort of blanket **license** there under challenge.

441 U.S. at 22-25. While the fact that this mechanism...
...to "improved product innovation efforts"); BMI, 441 U.S. at 16-25
(holding that blanket **license** agreement that "substantially lower[s]
costs" essentially created a new product and was

Footnote:

properly...

...NCAA's policy of concerted output decisions); BMI, 441 U.S. at passim
(reviewing blanket **license** agreement whereby ...LTD v. Unisys Corp.. 925
F.2d 670, 675-76 (EJ Csr 14yl (finding that **license** of software was a
"good" subject to mer,hznlab' provisions of the U.C.C...

16/K/2 (Item 2 from file: 15)

DIALOG(R) File 15:ABI/Inform(R)

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01755754 04-06745

Lochner in cyberspace: The new economic orthodoxy of "rights management"

Cohen, Julie E

Michigan Law Review v97n2 PP: 462-563 Nov 1998

ISSN: 0026-2234 JRNL CODE: MLW

WORD COUNT: 53112

...TEXT: inducing the creation of digital works and increasing consumers'
access to information, is that which **permits** copyright owners to maximize
control over the terms and conditions of use of their digital...the
maximum-hours legislation on health grounds would work a dramatic expansion
of the states' **authority** to interpose protective regulation in the
workplace.¹⁶ This the Court refused to do. Instead...

...state as constituted via the social contract for limited purposes.¹⁵
Within this vision, legislative **authority** to shape default rules for
social conduct encompassed only the specific terms of the original...

...turn-of-the-century governments undertook a broad variety of economic
legislation pursuant to their recognized **authority** to promote the
"general welfare."²¹ Outside the bounds of this general regulatory
authority, however, the state's role was limited to policing private
property rights and enforcing private...would look to Lockean intellectual
property theorists to support their claims to broad rights management
authority. Although the Constitution expressly **authorizes** only a limited
grant of exclusive (i.e., property-like) rights to authors, the
Enlightenment...

...copyrighted material must incur search costs to find material, exchange
costs if she decides a **license** is necessary, and uncertainty costs if she
decides it is not. Digital networks and CMS...undertake these tasks,
because it has no reliable means of valuing intellectual property, because
legislated **license** terms are comparatively inflexible, and because the
legislative process is subject to capture by interest groups.⁵³ Moreover,
he believes that the **licenses** administered by collective rights
organizations will be "closely akin" to compulsory **licenses**, in that they
will be available to anyone willing to pay the required price and...

...O'Rourke, Bell, and Merges differ as to whether and when public policy

might be **permitted** to override private contractual ordering of rights in digital works.⁵⁹ For Bell, the answer...Instead, much like the typical software purchase today, they will be governed by standard form "**licenses**" that include provisions regarding **permissible** and impermissible uses.⁷⁰ Digital CMS enable the use of such "click-through" contracts to...

...are, however, presumptively enforceable if the applicable disclosure standards were met.⁷⁴ The UCC does **authorize** refusal to enforce terms that are unconscionable, but the threshold for unconscionability is high.⁷⁵ ...

...for a regime based primarily on market ordering. It held that a mass-market shrinkwrap **license** met the requirements of voluntary assent and non-universality because the defendant consumer remained free to return the product and seek better terms elsewhere, and because the **license** would not bind an individual who found a copy of the work lying in the...be copied or otherwise accessed by unauthorized third parties, so it is irrelevant that the **licenses** would not bind them if they did gain access.⁸⁶ And the opportunity to engage...

...copyright legislation and Merges's depiction of the rate-setting process under the legislated compulsory **license** for sound recording rights.⁹⁹ Nor is it entirely inaccurate; as Jessica Litman has documented...we want it to be. Merges's discussion of performing rights societies (copyright collectives that **license** public performance rights in musical compositions) is not to the contrary. ASCAP and BMI, the...

...decrees require ASCAP and BMI to make membership available on a nondiscriminatory basis, to issue **licenses** to all who request them, and to accept a judicially determined reasonable fee (ASCAP) or a...that the competitor be enjoined from using the news at all without the AP's **permission**.¹⁷⁰ Although some courts have sought to limit INS - and avoid copyright preemption - by imposing...what is owned. To the extent that creativity is cumulative, it eludes attempts to set **authorial** or ontological boundaries.¹⁹⁰ Put differently, the boundaries of the **authorial** work and the literal boundaries of the copy that embodies it do not coincide; the...by using more durable CD-ROM media to distribute software products, and encryption coupled with "**licensed**" **authorized** -user access codes, rather than malfunction-prone jamming devices, to protect against copying.²³⁵ Although...of copyright, and that federal copyright law and policy instead should be interpreted affirmatively to **authorize** such conduct.²⁶⁴ Considered within the "contested exchange" framework, such technological countermeasures are simply consumers...the negative "power to switch" as exercised by individuals. Consumers cannot claim the right or **authority** to participate in decisions about product development, or in the selection and drafting of standard...scholarly research, and classroom instruction, users may be disinclined (or simply unable) to pass increased **license** fees through to their customer base because of limitations imposed by other institutional and social... Individuals do not buy copyrighted works out of an abstract sense of economic efficiency or **authorial** desert; they buy them for the benefits they expect to receive under the existing entitlements then digital rights management technologies and digital shrinkwrap **licenses** are a market failure waiting to happen. In that case, we might plausibly conclude that ...

...expose children to the importance of intellectual property and of asking - and, presumably, paying - for **permission** to use it.³⁵³ The distribution of power in a contested exchange also will affect...law considers fair uses

will not do so, either for economic reasons or because the **license** that governs usage rights forbids it. The locus of control over progress will shift slightly...

...of accepted practice in scholarly and research communities, because there now exist market mechanisms to **license** photocopying rights.³⁷⁰ Thus, both decisions rest on the same narrow view of the fair...Maureen A. O'Rourke, Drawing the Boundary Between Copyright and Contract: Copyright Preemption of Software **License** Terms, 45 DUKE L.J. 479 (1995) [hereinafter O'Rourke, Drawing the Boundary].

Footnote:
6...

...The "progress" criterion is constitutionally-mandated. See U.S. CONST. art. I, 8, cl. 8 (**authorizing** Congress to grant intellectual property rights "[t]o promote the Progress of Science and useful...uk/download.htm#finyear>.

Footnote:

The term "click-through" (or "click-wrap" or "web-wrap") **license** refers to a contract created by requiring the would-be purchaser of a digital work ...

...new Article 2B for the Uniform Com

Footnote:

mercial Code that would render click-through **licenses** for digital works valid and enforceable whether or not the terms were actually disclosed before payment. See U.C.C. ART. 2B: **LICENSES** 2B-208 (Annual Meeting Draft July 1998) (available at <<http://www.law.upenn.edu/library...of American Publishers>): *id.* at 68-77 (statement of Robert W. Holleyman II, President, Business **Software** Alliance); *id.* at 212-16 (statement of Gail Markels, General Counsel and Senior Vice-President, Interactive Digital **Software** Association); *id.* (statement of Tom Ryan, CEO, SciTech Software, Inc., on behalf of the **Software** Publishers' Association); *id.* at 156-61 (statement of Allee Willis, songwriter, on behalf of Broadcast Music, Inc.); National...have their own unique identifier if the publisher chooses. See Paula Berinstein, DOI: A New **Identifier** for Digital **Content** (visited Oct. 10, 1998) <<http://www.infotoday.com/searcher/jan/story4.html>>.

Footnote:

41. Bell...57. See *id.* at 134-35; see also O'Rourke, *supra* note 49, at 696 (**approving** Merges's suggestion as applied to Internet hyperlinks, and suggesting that the choice of redistributive...

...note 5, at 80. Indeed, the characterization of non-negotiable and essentially uniform mass-market **license** terms restricting use of intellectual property as "private legislation" originates with Merges. See Robert P...

...Copyright Preemption, *supra* note 5, at 82-84, 88-89 (suggesting that a mass-market **license** term that conflicts with copyright could be held invalid if it is not "reasonable" given...

...correlate with market price for improvement rights, or that owners will be equally willing to **license** all types of improvements. See also Lemley, *supra* note 6, at 1048-61; Merges, *Are...also* O'Rourke, *Drawing the Boundary*, *supra* note 5, at 487-95 (discussing typical software **license** terms); David A. Rice, *Public Goods, Private Contract Prohibitions and Public Policy: Federal Preemption of Software License Provisions Against Reverse Engineering*, 53 U. PITT. L. REV. 543, 552-67 (1992) [hereinafter Rice, *Public Goods*] (same).

The application of " **license** " terminology to digital works is contested. In the nondigital world, the purchaser of a book...

...the first sale doctrine, software developers have attempted to characterize the initial transaction as a **license** of usage rights rather than a sale. See, e.g., O'Rourke, *Drawing the Boundary*...

...F. Supp. 759, 762-66 (D. Ariz. 1993); Mark A. Lemley, *Intellectual Property and Shrinkwrap Licenses*, 68 S. CAL. L. REV. 1239, 1244 n.23 (1995) (collecting cases). But see *ProCD, Inc. v. Zeidenberg*, 86 F.3d 1447 (7th Cir. 1996) (Easterbrook, J.) (holding shrinkwrap **license** terms that restricted ongoing use of product enforceable); *Hill v. Gateway 2000, Inc.*, 105 F...

...Uniform Commercial Code rejects the majority viewpoint and adopts Judge Easterbrook's, treating most shrinkwrap **license** terms as enforceable restrictions that render the consumer's use subject to the copyright owner's ongoing control. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), *supra* note 24, at Preface, Pt. 2: Basic Themes; Rice... 1998 annual meeting. However, the American Law Institute (ALI), which has the power of final **approval**, expressed serious reservations, as did many other commentators. See, e.g., Letter from Prof. Geoffrey...

...Expand, 87 CALIF. L. REV. 17 (1999); Pamela Samuelson, *Does Information Really Have to Be Licensed?*, 41 COMM. ACM 15 (Sept. 1998)
<<http://sims.berkeley.edu/~pam/papers/acm 2B.html>...

...as "private legislation" - de facto legislation produced by private firms pursuant to a delegation of **authority** from the state, via the legal rules governing the formation and enforceability of such contracts...

...A.N. at 5745-48; Dennis S. Karjala, *Federal Preemption of Shrinkwrap and On-Line Licenses*, 22 U. DAYTON L. REV. 511, 524, 527-28, 537-39 (1997); Lemley, *supra* note...

...1447 (7th Cir. 1996).

Footnote:

The question whether the Copyright Act preempts certain provisions in **licenses** for digital works is really two questions. The first question, discussed in the text, is...

...and when that provision provides a 'reliable indicium of congressional intent with respect to state **authority**,' . . . 'there is no need to infer congressional intent to pre-empt state laws from the...*supra* note 49, at 696-97 (suggesting that constitutional considerations require preemption of standard form " **license** " terms barring World Wide Web linking).

Footnote:

84. See ProCD, Inc., 86 F.3d at...

...53 (applying the "extra element" test to a state law misappropriation claim and discussing collected **authorities** on the scope of 301 preemption). But see Rice, Public Goods, supra note 70, at...

...of bargaining).

Footnote:

Under proposed Article 2B of the UCC, this distinction vanishes entirely, because **license** restrictions would bind third parties. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), supra note 24, Sec 2B-507; cf. id. at Preface...mass-market context, should retain some meaning).

Footnote:

87. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), supra note 24, Sec Sec 2B-111, -112(b)-(c...

...be near-costless). Instead, the proposed draft would afford consumers who enter into mass-market **licenses** a limited rescission right after purchase but before use. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), supra note 24, Sec 2B-112(b)-(c) & cmts. 2...
...Recognizing the inconsistency with 301, O'Rourke argues that Sec 301 is "mechanical" and that **authority** to conduct a market analysis should be inferred to avoid preemption of "many" standard form **license** terms that conflict with copyright. See O'Rourke, Copyright Preemption, supra note 5, at 87...Pallas Loren, Redefining the Market Failure Approach to Fair Use in an Era of Copyright **Permission** Systems, 5 J. INTELL. PROP. L. 1, 32-48 (1997) (arguing that the vision of...text accompanying notes 25-26.

127. See U.S. CONST. art. I, 8, cl. 8 (**authorizing** limited grant of exclusive rights to promote "Progress").

Footnote:

128. Cf. Wendy J. Gordon, Toward...6, at 1056-61 (discussing other reasons that might lead existing copyright owners to refuse **licenses** for socially valuable improvements). 131. As explained supra at text accompanying notes 24-32, digital...

...about the desirability of collective licensing arrangements for copyrighted works, for which there is no **comparable** guarantee. See id. at 1342-52; Cf cf GARY D. LIBECAP, CONTRACTING FOR PROPERTY RIGHTS 24-28, 116...proves too much; the framers may well have understood "property" as Hardy describes, but they **authorized** Congress to grant only "exclusive [r]ights" for "limited [t]imes." U.S. CONST. art...

...note 83; Meredith L. McGill, The Matter of the Text: Commerce, Print Culture, and the **Authority** of the State in American Copyright Law, 9 AM. LITERARY HIST. 21 (1997). A full...on file with author). The prohibition on reverse engineering found in most mass-market software "**licenses**" also is remarkably uniform. See, e.g., O'Rourke, Drawing the Boundary, supra note 5 ...Barlow seem comfortable with the idea that purveyors of digital

information should enjoy broad contractual **authority** . See Barlow, *supra*; Brand, *supra*; Dyson, *supra*. The theory seems to be that if contractual...

...Philip E. Ross, Cops Versus Robbers in Cyberspace, FORBES, Sept. 9, 1996, at 134; A **License** You'd Like to Lose, PC MAG., Apr. 22, 1997, at 29; see also Coffee...that the firms often do not enforce them."). In addition, many courts have held "shrinkwrap" **license** provisions unenforceable. See *supra* note 70. On content providers' strategy for responding to this judicial...STAN. L. REV. 1487 (1997). GNU products, for example, are distributed under a "General Public **License** " that requires users to forgo proprietary rights in their own modifications to the software and...

...on H.R. 2281 and 2280, *supra* note 33. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), *supra* note 24, 2B-208, -310, -714, -715; sources cited...at 164-71; Samuelson, *supra* note 9.

Footnote:

275. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998) *supra* note 24, 2B-208. At the NCCUSL's July 1998 annual meeting, the commissioners **approved** a motion directing the drafting committee to amend Article 2B to allow judges to abrogate...

...expression" and referring only generally to "fundamental public policy." See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), *supra* note 24, 2B-105(b) & notes. 276. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), *supra* note 24, 2B-310, 715; Cohen, *supra* note 49...

...state law rights). As noted above, however, courts have differed on the enforceability of "shrinkwrap" **license** terms as a matter of contract law. See *supra* note 70. Proposed Article 2B would...

...UCC drafting process, which does not involve public officials. See U.C.C. ART. 2B: **LICENSES** (Annual Meeting Draft July 1998), *supra* note 24 (listing members of drafting committee); *id.* at...105th Cong. (1998); WIPO Copyright Treaties Implementation Act, H.R. 2281, 105th Cong. (1997); Senate **Approves** Digital Copyright Act; Similar Proposal Moving Through House, 66 U.S.L.W. (BNA) 2710...

...rights of free speech or the press for activities using consumer electronics, telecommunications, or computing **products** ." See *id.* The Digital Millennium Copyright Act is by no means an unqualified "victory" for consumers; for...to groups whose interests do not overlap with use of any particular set of consumer **products** " (emphasis added)); *id.* at 337-46 (showing that, in advertiser-supported media, competition among media products designed for...Act gives copyright owners exclusive rights to make and distribute copies of works and to **authorize** public performances and displays, not rights to control all reading and viewing of their works...13-14. Stefik and Silverman suggest a Digital Property Trust that would grant "fair use **licenses** " to qualified parties, who could then "exercise privileged rights on the digital work not normally...

...include insurance designed to protect digital publishers against the possibility of abuse by professed fair **users** . See *id.* The proposal intentionally leaves a number of important questions unanswered -- should there be a charge for the fair use **license** ? who may qualify for a **license** ? who decides what uses are "fair"? who pays for the insurance? what measures will be...

...fair users' privacy rights? - and fails to note others -- might the system be designed to **permit** certain uses without pre-screening? is insurance for publishers really necessary?. Nonetheless, it represents precisely...

16/K/3 (Item 3 from file: 15)

DIALOG(R)File 15:ABI/Inform(R)

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01385126 00-36113

A "comment J" Parry to Howard Latin's "good" warnings, bad products, and cognitive limitations

Weissman, Kenneth Ian

St. John's Law Review v70n4 PP: 629-691 Fall 1996

ISSN: 0036-2905 JRNL CODE: SJLR

WORD COUNT: 27124

...ABSTRACT: has been dubbed the "comment j presumption." Critics of current product warning doctrines argue that **permitting** manufacturers to avoid liability by adding an adequate warning label keeps accident levels unnecessarily high...

...TEXT: has been dubbed the "comment j presumption." Critics of current product warning doctrines argue that **permitting** manufacturers to avoid liability by adding an adequate warning label keeps accident levels unnecessarily high...⁸⁹ Manufacturers who failed to comply with these or other similar requirements would not be **permitted** to avail themselves of the comment j presumption.

Furthermore, Professor Latin's functional illiteracy argument...

...and understanding documents or simply presume their competence. In order to receive a driver's **license**, for example, an applicant must pass a written test demonstrating knowledge of the rules of...was aware of the rifle's dangerous propensity,³¹⁹ but took the gun without obtaining **permission** from his parents or having read the instructions. When he "pointed the barrel of the...difficulty in defending against such actions, and the 'apparently' low cost of placing warnings on **products** ." *Id.* (citations omitted); see also VISCUSI, *supra* note 14, at 132 ("The major issue is no...the American Law Institute adopted Tentative Draft No. 2 of the Restatement (Third) of Torts: **Products Liability**." *Id.* "Despite the A.L.I.'s adoption of

Footnote:

Tentative Draft No. 2, the debate...

...the commercial chain of distribution, and the omission of the instructions or warnings renders the **product** not reasonably safe. *Id.*

Footnote:

37 *Id.* at 2 cmt. a.

38 *Id.*; see also Henderson & Twersky, *supra* note...

...in using the product for its particular purpose would not be obvious to a "reasonable **product user** ." *Id.* Since reasonable people may disagree

as to which risks are "obvious," that is a question...

...or that the consumer's failure to heed warnings is an unforeseeable misuse of the **product** . *Id* . at 1257. 45 *Id*. at 1205. 46 *Id*. at 1195.

Footnote:

47 *Id*. at 1198...actions where child users failed to read or follow warning labels, arguing that such decisions **permit** manufacturers to ...of a warning label does not decrease the possibility of product related injuries since few **users** read the warning. *Id* .

Professor Latin suggested that this study was plausible and agreed that, while this conclusion may...

...regarding natural disasters. *Id*. Dorris & Purswell suggest that this reluctance extends to warnings about common **products** . *Id* . Professor Latin posits that consumers rely upon prior knowledge and past experiences with common products...Consumers know that the design and manufacture of appliances may be affected by human error. *Id* . Since numerous **product** successes would imply a forthcoming failure, the representativeness heuristic biases users towards pessimism, making it...

...of a product may cause consumers to ignore negative attributes, resulting in cognitive dissonance affecting **product** selection. See *id* .

215 *Id*. "Framing" refers to the phenomenon whereby individuals respond in "unexpected" ways to information...One study found that less than 10 of antacid purchasers recalled any portion of the **product** 's warning label. *Id* . Analogous studies measured the ability to recall propaganda posters, traffic safety posters, and traffic signs...manufacturer is not required to produce a product that is wholly incapable of injuring the **user** ." *Id* . at 266-67. 281 The warning stated, in part:

WARNING - EXTREME DANGER ... VELCRO closure has...

...ALL SUCH WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE." *Id* . at 533.

285 **Compare** Campos v. Firestone Tire & Rubber Co., 485 A.2d 305, 310 (N.J. 1984) (stating...protection on the ground that users could have avoided the injuries if they had heeded **product** warnings." *Id* . at 1196-97 (emphasis in original).

324 "[W]arnings will not exculpate when the product...

...risks cannot reasonably be implemented, adequate instructions and warnings will be sufficient to render the **product** reasonably safe.

Footnote:

Id . at cmt. k. This partially addresses Professor Latin's concern that "[p]roduct warnings and...

16/K/4 (Item 1 from file: 16)
DIALOG(R)File 16:Gale Group PROMT(R)
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05887741 Supplier Number: 53078760 (USE FORMAT 7 FOR FULLTEXT)
**ID-Trak(TM) Enterprise Offers Scalable, Realtime Defenses for Distributed
 Intranets, Extranets and Internet Sites.**

PR Newswire, p0323
 Oct 13, 1998
 Language: English Record Type: Fulltext
 Document Type: Newswire; Trade
 Word Count: 955

... been fortified to best meet corporate security requirements within
 broadly distributed computing environments.

Enterprise Feature **Comparison *** ID
 -Trak(TM) ISS Enterprise
 RealSecure(TM)

Version 2.1 Version
 3.0

Detects hundreds of...
 ...profiling Yes No

Real-time Signature Deployment Yes No
 A Java-based administrative console enables **authorized** network
 administrators convenient management from any popular web browser.
 Administrative privileges can be further refined...

...resources require high availability and timely delivery of sensitive
 data to both internal and external **clients** . We found ID -Trak to be an
 excellent compliment to our security program by providing us the means...

...S. suggested price of \$3995 for 50 nodes and \$9,995 for unlimited nodes.
 Site **license** pricing is available. Users are invited to obtain a 30-day
 hassle free evaluation by...

...Stateful Dynamic Signature Inspection (SDSI(TM)) technology which is
 incorporated in the company's flagship **product** , ID -Traka. ID -Trak(TM)
 transparently examines packets at near-wire speed to identify, log and
 terminate unauthorized...

16/K/5 (Item 2 from file: 16)
 DIALOG(R)File 16:Gale Group PROMT(R)
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04338136 Supplier Number: 46362338 (USE FORMAT 7 FOR FULLTEXT)
 Comparator **Systems to Unveil Long-Awaited New Fingerprint Identification
 Systems on May 14 at Major Exhibition in Atlanta.**

Business Wire, p5060073
 May 6, 1996
 Language: English Record Type: Fulltext
 Document Type: Newswire; Trade
 Word Count: 728

(USE FORMAT 7 FOR FULLTEXT)
 Comparator **Systems to Unveil Long-Awaited New Fingerprint Identification
 Systems on May 14 at Major Exhibition in Atlanta.**

TEXT:

...introduce to the world market its new line of state-of-the-art Biometric Identity **Verification** Systems at the CardTech/SecurTech Exhibition in Atlanta, Georgia on May 14-16.

Comparator 's new Series 5000 Fingerprint- **ID** systems, which have been under development for several years, are successors to the Company's ...

...that law enforcement users have now collectively made in excess of 1,000,000 identity **verifications** using ID-1s, without one error having ever been reported to the Company.

The new...

...from Comparator's requirement that the new systems achieve the high accuracy for which the **ID -1** was famous, as well as a **comparison** time of under 1 second. Altogether Comparator has approximately \$10,400,000 invested in the...

...Series 5000 include US and foreign government applications such as passports, resident alien identification, drivers' **licenses** , national identification cards, diplomatic and military security, aircraft boarding control, and welfare fraud control.

Commercial markets include credit card **authorization** , check cashing, ATMs, hospital patient identification, narcotics storage access, healthcare benefits identification, newborn infant/mother...

...has just been entered into with G&A Imaging Ltd., the leading producer of imaging **software** for electronic photo **ID** production, card access, and **ID verification** . **Users** of its technology include AT&T, Amtrak, Sunbeam, Hitachi, 3M and the Canadian Department of National Defense. Under the new agreement, **Comparator** 's Fingerprint **ID** technology is being incorporated into G&A's Avantguard software for worldwide distribution.

The G...

...fraud-proof financial transactions. The transaction server can provide a database of fingerprints for transaction **authentication** , using Comparator's new fingerprint comparison technology.

IFSI has just been awarded a major systems...

16/K/6 (Item 1 from file: 148)

DIALOG(R) File 148:Gale Group Trade & Industry DB
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12544781 SUPPLIER NUMBER: 64343963 (USE FORMAT 7 OR 9 FOR FULL TEXT)

The incremental strengthening of First Amendment protection for commercial speech: lessons from Greater New Orleans Broadcasting.

Langvardt, Arlen W.

American Business Law Journal, 37, 4, 587

Summer, 2000

ISSN: 0002-7766

LANGUAGE: English

RECORD TYPE: Fulltext

WORD COUNT: 32578

LINE COUNT: 02670

... political and other noncommercial speech. Two "commonsense" differences-commercial speech's supposedly being more readily **verifiable** and more durable than noncommercial speech(76)--caused the Court to recognize what has come...because the government could have enacted a wholesale prohibition of the underlying conduct(,) ... it is **permissible**

for the government to take the less intrusive step of allowing the conduct but reducing...decisions might have indicated. In Board of Trustees v. Fox, (119) the Court seemed to **approve** of the deferential approach utilized in Posadas and offered what appeared to be a pro...

...a radio or television broadcaster to air lottery advertisements only if the advertiser's FCC **license** was for a location in a state that allowed lotteries to operate. (146) The broadcaster raising the challenge (Edge Broadcasting Co.) possessed an FCC **license** for a radio station in a non-lottery state (North Carolina). More than ninety percent...

...permeated the relevant statutes and regulations. Juxtaposed against the beer label restriction was federal law **permitting** --and in some instances even requiring--alcohol content disclosures on labels for wine and other... 18 of the U.S. Code contained sweeping language that barred radio and television stations **licensed** by the Federal Communications Commission (FCC) from broadcasting advertisements for a wide range of gambling...

...commercial for privately owned casinos. (236)

The plaintiffs in Greater New Orleans Broadcasting owned FCC-**licensed** radio and television stations in Louisiana. They wished to broadcast advertisements for private, profit-seeking...1988 statutes also drew the Court's attention. That year's Indian Gaming Regulatory Act **permitted** Native American tribes to conduct gambling operations--including casino gambling--under tribal-state compacts if the relevant state **permitted** gambling for any purpose. (260) These tribal gambling operations were exempted from section 1304's...

...geographically limited; they shield messages from section 1304's reach in States that do not **authorize** such gambling as well as those that do." (264)

According to the Court, the statutes...the Court observed that Congress, "(d)espite its awareness of the potential social costs," had **approved** of casino gambling enterprises run by Native American tribes and had enacted statutes reflecting **approval** of state laws that **authorize** numerous public and private gambling operations. (283) The Court also noted that in exempting certain...of competing State and private interests." (319) Instead, relevant federal law "distinguishes among the indistinct, **permitting** a variety of speech that poses the same risks the Government purports to fear, while...contemplated by part four of the test does not give the government an anything-goes **license** to regulate. The hurdle created by the Central Hudson test's final element remains a...

...unanimous opinion for the Court three years after his 44 Liquormart opinion met with the **approval** of only a plurality of the Justices. (358) Second, Justice Stevens effectively achieved, in Greater...of the commercial speech restriction. (379) By causing the Greater New Orleans Broadcasting Court to **approve** a "presumption" against government attempts to restrict accurate, nonmisleading commercial expression, Justice Stevens took steps...regulation of it. Id. Critics have questioned the soundness of the greater durability and greater **verifiability** distinctions. See, e.g., Richard L. Barnes, A Call For a Value-Based Test of...

...part and concurring in the judgment) (expressing strong doubts about the greater durability and greater **verifiability** distinctions). Even so, the Court has generally continued to cite them as reasons why commercial...

...Liquormart, 517 U.S. at 498-99. Perhaps tellingly, however, the greater

durability and greater **verifiability** distinctions were not mentioned by the Court in Greater New Orleans Broadcasting. See 119 S...commercial speech is entitled to substantial First Amendment protection (and thereby) giving the government unprecedented **authority** to eviscerate constitutionally protected expression." Id. Justice Brennan's comments become especially interesting when one...

...Amendment protection for commercial speech presumably left room for the government to exert significant regulatory **authority**, any such **authority** "would be illusory if it were subject to a least-restrictive-means requirement, which imposes...563-64, 566-70.

(132) 507 U.S. at 417-18, 424-25, 428.

(133) **Id.** at 417 & n.13, 430.

(134) **Compare id.** at 417-19, 425-28, 430-31 (careful and critical examination of relationship between city...

...dissenter in Edenfield. 507 U.S. at 778.

(141) 507 U.S. at 771.

(142) **Id.** at 771-73.

(143) **Compare id.** at 770-73; Discovery Network, 507 U.S. at 417-19, 425-28, 430-31...

...341-44.

(146) 18 U.S.C. (subsections) 1304, 1307 (1994). If the broadcaster's **license** was for a location in a state that did not allow lotteries, advertisements for lotteries...for extending less protection to commercial speech than to its noncommercial counterpart: the supposedly greater **verifiability** and greater durability of commercial speech. See **id.** For discussion of these traditional justifications, see...

...on truthful, nonmisleading commercial speech cannot be explained away" by the standard citation of the **verifiability** and durability distinctions. 517 U.S. at 502.

(203) 517 U.S. at 503. The...

...518, 522-23, 523-28 (Thomas, J., concurring in part and concurring in the judgment). **Compare id.** (expressing desire to eliminate Central Hudson test or at least severely limit its use) with...s message of dissatisfaction with the Central Hudson test.

(222) **Id.** at 526. As further **authority** for the statement quoted in the text, Justice Thomas cited Justice Blackmun's concurrence in...

...Although Justice Thomas made no secret of his distaste for the Central Hudson test, he **approvingly** noted that in the Stevens and O'Connor opinions, the test had been applied in...

...lawful activity at all) would be an equally effective method of dampening demand by legal **users**." **Id.** at 524. Although such an application of the four-part test reached an outcome he...

...occupies a First Amendment position subordinate to that of noncommercial speech. **Id.** He criticized the **verifiability** and durability rationales customarily offered by the Court for extending less protection to commercial speech...

...New Orleans Broadcasting, 119 S. Ct. at 1926-27, 1928-29. Section 1304 prohibited FCC- **licensed** radio and television stations from broadcasting "any advertisement of or information concerning any lottery, gift...U.S.C. (sections) 1307(a)(2) (1994).

(263) 119 S. Ct. at 1928.

(264) **Id . Compare** 18 U.S.C. (sections) 1307(a)(1)(B) (lottery advertisement exemption tied to whether...under federal law--inconsistencies that led to alcohol content disclosures in advertisements and even on **product** labels. See **id .** at 488-90. The Court concluded that the ban on such disclosures on beer labels...

...8 F.C.C.R. 44 (1992). Compare 8 F.C.C.R. 44 (FCC **approves** of broadcast advertisement stating that casino promises "Vegas-style excitement") with In re WTMJ, Inc...4th Cir. 1998). Because the decision was grounded on the FDA's lack of regulatory **authority** , it was unnecessary for the Court to consider the First Amendment argument made by tobacco...

...that Fourth Circuit did not address First Amendment argument and that issue of FDA's **authority** was only question on which certiorari was granted).

The FDA's 1996 move to regulate...

...enacted similar restrictions or the FDA re-promulgated the regulations after a suitable grant of **authority** from Congress, Greater New Orleans Broadcasting would call for the court deciding the inevitable First...

16/K/7 (Item 2 from file: 148)

DIALOG(R)File 148:Gale Group Trade & Industry DB
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11762495 SUPPLIER NUMBER: 57388942 (USE FORMAT 7 OR 9 FOR FULL TEXT)
Filing and enforcement under Revised Article 9.(The Uniform Commercial Code Survey)

Harris, Steven L.; Mooney, Charles W., Jr.
Business Lawyer, 54, 4, 1965
August, 1999

ISSN: 0007-6899 LANGUAGE: English RECORD TYPE: Fulltext
WORD COUNT: 10749 LINE COUNT: 00885

... of work, Revised Article 9 of the U.C.C. is here.(1) It was **approved** by its sponsors, the ALI and NCCUSL, in 1998 and, as of this writing (July...

...many payment streams formerly classified as "general intangibles" (for example, rights to payment from the **license** or sale of intellectual property or real property), leaving sales of interests in loans (including ...1994 revisions to Articles 8 and 9, Revised Article 9 provides that filing is a **permissible** method of perfecting a security interest even in instruments.(34)

WHERE TO FILE

When the...

...agreement or notification,(45) Revised Article 9 generally requires the agreement or notification to be " **authenticated** ."(46) This approach is reflected in the fact that Revised Article 9 explicitly **permits** filing offices to accept financing statements and other records, and to communicate with filers, in...

...a representative of the secured party, (iii) an indication of the collateral, and (iv) an **authorization** by the debtor.(48) Unlike Former Article 9, which required the debtor's **authorization** to be part of the public record (in the form of the debtor's signature),(49) Revised Article

9 dispenses with a signature requirement. Instead, a financing statement may be **authorized** in any **authenticated** record.(50) The debtor's **authentication** of a security agreement is ipso facto **authorization** of the filing of a financing statement covering the collateral described in the security agreement...

...perfect if it satisfies the three formal requirements of section 9-502(a) and is **authorized** by the debtor. If an address or section 9-516(b)(5) information is incorrect...to notification of disposition of collateral by an agreement to that effect entered into and **authenticated** after default.(85)

If the collateral is other than consumer goods, Revised Article 9 also...foreclosure only when it resulted in satisfaction of the entire secured obligation, Revised Article 9 **permits** a debtor and secured party to agree to the secured party's acceptance (strict foreclosure...

...to the courts the rules governing the consequences of noncompliance in consumer transactions and explicitly **permits** the courts to "continue to apply established approaches."(117) One might expect a court to...

...to adopt a statutory rebuttable presumption rule or a statutory absolute bar rule.(120) It **approved** these alternatives as part of a larger package of reforms relating to an array of...law process. Beginning with the preparation of preliminary memoranda in 1989 and ending with final **approval** of the U.C.C.'s sponsors in 1998 and final fine-tuning of the...a unique concept, not to be confused with "control" of deposit accounts or investment property. **Compare id.** (sections) 9-105 (explaining control of electronic chattel paper), with **id.** (sections) 9-104 (explaining...**id.** (sections) 9-103(c) (providing for purchase-money security interests in goods and related **software**); **id.** (sections) 9-102(a)(11) (defining "chattel paper" to include a record or records that...

...becomes the owner of the goods as a consequence of that person's becoming the **owner**. See **id.** (sections) 9-102(a)(44).

(28.) **Id.** (subsections) 9-101 cmts. 4, 9-102 cmts...45.) "'Signed' includes any symbol executed or adopted by a party with present intention to **authenticate** a writing." **Id.** (sections) 1-201 (39) (1995).

(46.) "**Authenticate**" means "to sign" or "to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the **authenticating** person to identify the person and adopt or accept a record." **Id.** (sections) 9-102...

...502(a) (1999) (listing the first three formal requirements); **id.** (sections) 9-510(a) (explaining **authorization**).

(49.) See **id.** (sections) 9-402(1) (1995).

(50.) A person may file an initial...

...statement or an amendment that adds collateral or adds a debtor only if the debtor **authorizes** the filing. See **id.** (sections) 9-509(a) (1999). The revised Article affords parallel protection...

...statement (e.g., a continuation statement or a termination statement) only if the secured party **authorizes** the filing. See **id.** (sections) 9-509(c). The exception **permits** a debtor to **authorize** the filing of a termination statement if the secured party has failed to file a...

...C. (sections) 9-513(a) or (c) and the termination statement indicates that the debtor **authorized** the filing. **Id.**

(51.) See **id.** (sections) 9-509(b).

(52.) See id. (sections) 9...

...decline speedily in value, or is of a type customarily sold on a recognized market. **Compare** id. (sections) 9-611 (d) (1999), with id. (sections) 9-504 (1995).

(78.) Concerning (i) who is a "debtor" entitled to notification, see ...id. At 1162 & n.286 (who must be given notification); id. at 1171 & n.339 (**contents** of notification); id. at 1168 & n.318 (timing of notification).

(79.) See U.C.C. (sections) 9-611...

...text imposed a similar duty that was eliminated by the 1972 revisions to Article 9. **Compare** id. (sections) 9-504(3) (1962), with id. (sections) 9-504(3) (1972).

(87.) See id. (sections) 9-611(e) (1999).

(88.) See...

...11(2) (West Supp. 1999).

(97.) See U.C.C. (sections) 9-619.

(98.) See id. (sections) 9-619(c).

(99.) **Compare** id. (sections) 9-505(2) (1995) (providing that the secured party may "retain the collateral in...

...the debtor must agree to the terms of a partial strict foreclosure in a record **authenticated** after default. See id. (sections) 9-620(c) (1999).

(100.) **Compare** id. (sections) 9-505(2) (1995) (providing that a "secured party in possession" may propose to...Article 9 required that the waiver be signed; Revised Article 9 requires that it be **authenticated** . **Compare** id. (sections) 9-505(2), with id. (sections) 9-624(b) (1999).

(114.) Whereas former U.C.C. (sections) 9-507(1...

16/K/8 (Item 3 from file: 148)

DIALOG(R)File 148:Gale Group Trade & Industry DB

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09710754 SUPPLIER NUMBER: 19697901 (USE FORMAT 7 OR 9 FOR FULL TEXT)

The death of Posadas and the birth of change in commercial speech doctrine: implications of 44 Liquormart.

Langvardt, Arlen W.; Richards, Eric L.

American Business Law Journal, 34, n4, 483-559

Summer, 1997

ISSN: 0002-7766

LANGUAGE: English

RECORD TYPE: Fulltext; Abstract

WORD COUNT: 37946 LINE COUNT: 03107

... Consumer Council.(43) The case presented a First Amendment challenge to a Virginia statute prohibiting **licensed** pharmacists from advertising the prices they would charge for prescription drugs. Concluding that any First...

...commercial speech than to noncommercial speech.(57) The Court regarded commercial speech as "more easily **verifiable** " than its noncommercial counterpart -- meaning that there was less need for the controlling legal rules...

...are open to question. It seems overbroad to assert that commercial speech is more easily **verifiable** than noncommercial speech.(60) Likewise, the Court's assumption about the special hardness of commercial...Board of

Pharmacy opinion, the Court pointed out examples of government regulation that would be **permissible** under the less-than-full First Amendment protection extended to commercial speech. It saw "no...

...speech.(64) Along a related line, the Court observed that in view of the supposed **verifiability** and hardness of commercial speech, the government could seek to prevent deception by requiring advertisements...

...First Amendment protection for commercial speech. They were particularly concerned that the majority's approach **permitted** "the State to manipulate the choices of its citizens, not by persuasion or direct regulation...i)t would ... be a strange constitutional doctrine which would concede to the legislature the **authority** to totally ban a product or activity, but deny to the legislature the **authority** to forbid the stimulation of demand for the product or activity through advertising on behalf...1989 decision in Board of Trustees v. Fox(103) partially reinforced Posadas by seeming to **approve** courts' use of deference in applying the four-part test.(104) Even more significantly, Fox...about Cincinnati's "categorical ban" and its clear second-guessing of determinations made by regulatory **authorities**, (125) Discovery Network sent very different signals from those sent in Posadas and, to a...

...v. Edge Broadcasting Co.(139) were federal statutes that dealt with radio and television broadcasters **licensed** by the Federal Communications Commission. A longstanding statute barred broadcasters from airing lottery advertisements. A...

...the same statutory scheme, however, allowed a broadcaster to air lottery advertisements if its FCC **license** was for a location in a state that **permitted** lotteries. If the **license** was for a location in a state that did not **permit** lotteries, the general statutory prohibition against airing lottery advertisements would still control.(140)

Edge Broadcasting's radio station had an FCC **license** for Elizabeth City, North Carolina, though the station actually broadcast from another North Carolina community located approximately three miles from the North Carolina-Virginia border. Virginia law **permitted** lotteries, but North Carolina law did not. Therefore, under the applicable federal statutes; Edge Broadcasting...states, it was reasonable to expect advertising ban compliance on the part of aR broadcasters **licensed** for locations in nonlottery states -- regardless of their individual locations within those states and regardless...

...determinations.(154)

Coors filed suit after the Bureau of Alcohol, Tobacco and Firearms refused to **approve** proposed labels and advertisements that disclosed the alcohol content of its beer. The BATF based...of alcohol content, the same statute's provision regarding labels for wine and other spirits **permitted** alcohol content disclosures and even required them concerning wines with high alcohol content.(166) Given...

...44 Liquormart Case

Facts and Procedural History

A Rhode Island statute, applicable to liquor vendors **licensed** in Rhode Island and to manufacturers, wholesalers, and shippers from outside Rhode Island, prohibited advertising state's liquor control administrator fined 44 Liquormart, Inc. (a **licensed** retailer of alcoholic beverages) \$400 upon concluding that one of its advertisements violated the statutory ban.(181)

After paying the fine, 44 Liquormart and another **licensed** liquor

retailer filed a declaratory judgment action on the theory that the statutes violated the...consistent with the thrust of Part IV of the principal opinion.(275) In addition, he **approvingly** cited Justice Blackmun's Central Hudson concurrence, which had argued that when commercial speech restrictions...application that would involve heightened scrutiny. Notwithstanding his dissatisfaction with the four-part test, he **approvingly** noted that Justice Stevens appeared to apply the test in a strict fashion that "could...noncommercial speech. Regulations that suppress the truth are no less troubling because they target objectively **verifiable** information, nor are they less effective because they aim at durable messages. As a result...

...of 'lower value' than 'noncommercial' speech."(351) Justice Thomas then took aim at the greater **verifiability** and hardiness factors: "Nor do I believe that the only explanations that the Court has...

...dissatisfaction with prevailing commercial speech jurisprudence, he asserted that "(t)he degree to which (the **verifiability** and hardiness) rationales truly justify treating 'commercial' speech differently from other speech (or indeed, whether...dollars and I have voted against it every time." The second statement is more readily **verifiable** as true than the puffing of a manufacturer in this specific instance. Not all commercial speech is less readily **verifiable** than political statements. **Verifiability** will depend more on the type of statement made and its circumstances than on its...

...73) Id. at 563, 566. The Court noted that "in recent years, (it had) not **approved** a blanket ban on commercial speech unless the expression itself was flawed in some way...purchase of religious books). The flexible nature of Bolger's tripartite test would appear to **permit** varied levels of protection for commercial speech, with those levels perhaps tied to the Court...

...U.S. 328 (1986).

(90) Id. at 330-33, 344, 348. The statute and regulations **permitted** casino gambling advertisements if they were directed toward nonresident tourists. Id. at 330, 332-33...

...casino gambling itself to remain legal. Id. at 353-54 (Brennan, J., dissenting).

(93) See **id .** at 341-44. **Compare id .** (deferring to judgments of legislature) with, e.g., Central Hudson, 447 U.S. at 566...fact that commercial speech is entitled to substantial First Amendment protection, giving the government unprecedented **authority** to eviscerate constitutionally protected expression." Id. at 352. As later discussion will reveal, the Court...

...the government could have enacted a wholesale prohibition of the underlying conduct that it is **permissible** for the government to take the less intrusive step of allowing the conduct, but reducing...Scalia presumably meant that the Court was preventing the over-protection of commercial speech. See **id .** The **content** and effect of Posadas and Fox nevertheless leave the Court vulnerable to the criticism that...

...The Court also rejected Cincinnati's alternative argument that the commercial newsrack ban was a **permissible** restriction on the time, place, or manner of speech. Valid time, place, or manner restrictions...

...for publications containing predominantly commercial content were prohibited, whereas newsracks for publications containing predominantly noncommercial **content** were allowed. *Id.* at 428-30. Justice Blackmun, who joined the majority opinion, issued a separate concurrence in...116 S. Ct. 1495, 1507-08 (1996) (Justice Stevens again putting forth-this time with **approval** of Justices Kennedy and Ginsburg -- argument he sought to advance ...Edenfield, 507 U.S. at 771-73.

(176) 115 S. Ct. at 2380-81.

(177) **Compare**, e.g., *id.* at 2381 (majority opinion's statements that "(t)his case ... concerns pure commercial advertising, for...

...whatsoever," it contained an exception for price tags or signs that were displayed on a **licensed** vendor's premises but were not visible from the street. *Id.* (Sections) 3-8-7...

...The Court noted in Part VII that although the Twenty-first Amendment "grants the states **authority** over commerce that might otherwise be reserved to the Federal Government, it places no limit...

...was no First Amendment infirmity in a state's ban on sexual exhibitions in premises **licensed** to sell alcohol. See *id.* at 118-19. Larue furnished the basis in 44 Liquormart...the principal opinion, commercial harms refers to consumer injuries resulting from deceptive commercial speech or **comparable** unfairness in the bargaining process. See *id.* at 1507-08. See also *id.* at 1505, 1506-07 (Part III discussion relevant to...

...Those distinctions are the supposedly greater hardiness (due to the underlying profit motive) and greater **verifiability** of commercial expression. *Id.* at 1507-08; Virginia Board of Pharmacy, 425 U.S. at...

...on truthful, nonmisleading commercial speech cannot be explained away" by pointing to the hardiness and **verifiability** factors. 116 S. Ct. at 1507. Part IV of the principal opinion then continued with...

...commercial speech:

Regulations that suppress the truth are no less troubling because they target objectively **verifiable** information, nor are they because they aim at durable messages. As a result, neither the "greater...the Court characterized the underlying activity at issue in the case -- the operation of state- **approved** lotteries -- as a "vice" activity that states of course may prohibit if they so desire...and United States v. Edge Broadcasting Co., 509 U.S. 418 (1993) (each appearing to **approve** or follow deferential approach) with City of Cincinnati v. Discovery Network, Inc., 507 U.S...

...Fox, 492 U.S. 469 (1989), each of which appeared to follow, or at least **approve** the use of, a deferential approach.

(293) 44 Liquormart, 116 S. Ct. at 1522 O...aimed at the content of the speech or the adverse effects allegedly stemming from that **content**. *Id.* at 416 n.11. Therefore, he noted, any such issue would not be decided by...

...lawful activity at all) would be an equally effective method of dampening demand by legal **users**." *Id.* Justice Thomas then observed that "directly banning a product (or rationing ...always be at least as effective in discouraging consumption as merely restricting advertising regarding the **product** would be." *Id.* As a result, he contended, nearly all restrictions imposed for the purpose of discouraging consumption...

...Connor, J., concurring in the judgment).

(327) See 116 S. Ct. at 1521-22.

(328) **Compare id .** at 1505-07 (Part III's contemplation of different degrees of care in applying Central...

...507 U.S. 410, 416 n.11 (1993).

(336) See 116 S. Ct. at 1507. **Compare id .** (stating that when the government restriction on truthful commercial speech is imposed "for reasons unrelated...tobacco use," as well as further purpose of providing important information to users and potential **users** of tobacco **products**); **id .** (section) 897.32(a)) (black-and-white text only in ads in publications with significant...

...The FDA's partial victory stemmed from the court's holdings that: (1) under the **authority** the Food, Drug and Cosmetic Act gives it to regulate drugs and drug-delivery devices...

...to regulate nicotine and cigarettes, **id .** at *6, *51-*60, *63; and (2) this statutory **authority** supports the validity of FDA regulations restricting minors' access to cigarettes (such as cigarette display... Osteen ruled that the powFDA by the Food, Drug and Cosmetic Act did not include **authority** to adopt advertising regulations of the sort at issue in the case. **Id .** at *65...

16/K/9 (Item 4 from file: 148)

DIALOG(R)File 148:Gale Group Trade & Industry DB
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07291523 SUPPLIER NUMBER: 15405554 (USE FORMAT 7 OR 9 FOR FULL TEXT)

Specificity of subsidy benefits in U.S. Department of Commerce countervailing duty determinations.

Ragosta, John A.; Shanker, Howard M.

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... Finally, although Commerce has not said so, specificity seems to incorporate some concept of fairness, **permitting** only the offset of those subsidies that do not represent the legitimate functions of government... course, more novel programs are possible. For example, Commerce recently countervailed a government program that **permitted** selected companies to have access to otherwise controlled foreign and private credit.(41) In a...

...justifies this requirement by arguing that it is one facet of the second factor, which **permits** evidence of a government policy to treat industries equally.(49)

1. Administration of the Programs...or group thereof.(70) U.S. countervailing duty law provides, in part, that:

the administering **authority** , in each investigation, shall determine whether the bounty, grant, or subsidy in law or in...

...the statute nor its legislative history, however, provides guidance on how Commerce, as the administering **authority** , is to define "enterprise or industry or group thereof."(72) Moreover, Commerce has not adopted...a Program

If a program does not provide binding industry-specific guidelines for the administering **authority** to follow, Commerce will review

administration of the procedures for **approving** or rejecting benefits applications to determine if the exercise of government discretion can encourage specific...

...come, first-served basis, and requiring the construction of sawmills for the granting of some **licenses**, constituted the exercise of discretion and skewed the allocation of stumpage rights toward lumber producers...down in a tangle of process rather than discussing substance. The trend is for reviewing **authorities** to impose procedural restrictions on Commerce by reviewing all factors even though only one may...that involvement"). Southwick goes on, however, to argue that the specificity test in application has **permitted** subsidies generally perceived by Congress as "unfair" - in particular natural resource subsidies - to escape countervailing...

...natural resource subsidies - as unfair. Thus, once Commerce corrected its specificity methodology in 1986 to **permit** the former types of subsidies to be countervailed, Congress' vigor for modifying or eliminating the...discrete class which has been afforded the benefits of a (bounty or grant'), cited with **approval** in *Roses, Inc. v. United States*, 15 Ct. Int'l Trade 465, 467, 774 F...1985). (148.) See 19 U. S. C. [section] 1677 (5) (B) (1988).

[T]he administering **authority**, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in...infra notes 164-73 and accompanying text, the users of a subsidy benefit should be **compared** to the potential "universe of **users**." *Id.* at 38-42. This new formulation of the discredited inherent characteristics test was roundly criticized...

...49 Fed. Reg. 49,661, 49,662 (Dep't Comm. 1984) (prelim. determ.) (finding at **verification** that only four industries were **authorized** by the government to receive the benefits in question and that therefore this benefit was...supra note 167, at 49. in response to this criticism, respondents unsuccessfully urged, without any **authority** or reasons, that an inherent characteristics rationale was only applicable in a case involving the...total subsidy absorbed by the industry relative to that industry's share of gross national **product** (GNP).

Id. (197.) See, e.g., Tarullo, supra note 17, at 563 (concluding that companies with less...

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CANDLE CORP 2: Candle Corp. announces it has added a security interface to its popular CL/MENU product

October 8, 1986

Byline: Business Editors

...in the new release of CL/MENU, the system can be set to require a **user ID** code and logon password before the facilities of CL/MENU become available. Potential hackers can...

...ACF2m, from SKK Software. These security products are not included in CL/MENU. The security **software** then **compares** the **ID** code and password typed in response to CL/MENU's prompt to a user table.

If the information is correct, access to CL/MENU will be **permitted**, and the CL/MENU screen will come up on the terminal. Without the proper ID...

...MENU designed to operate in the MVS environment, and will be included for all new **licenses**. Distribution of this enhancement is expected to begin 4th Quarter, 1986.

Before CL/MENU, sytem...

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